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12 Plaintiffs' Counsel)

13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15 SAN JOSE DIVISION

16 CLRB HANSON INDUSTRIES, LLC d/b/a
17 INDUSTRIAL PRINTING, and HOWARD
STERN, on behalf of themselves and all others
18 similarly situated,

19 Plaintiffs,

20 vs.

21 GOOGLE, INC.,

22 Defendant.

Case No. C 05-03649 JW PVT

**DECLARATION OF DANIEL J. SHIH IN
SUPPORT OF PLAINTIFFS' MOTION
TO SHORTEN TIME FOR HEARING ON
PLAINTIFFS' MOTION TO COMPEL
OBJECTOR DEPOSITIONS**

Civil Local Rule 6-3

23 I, DANIEL J. SHIH, hereby declare and state as follows:

24 1. I am an attorney at Susman Godfrey L.L.P., and counsel for plaintiffs CLRB
25 Hanson Industries LLC d/b/a Industrial Printing and Howard Stern (collectively "Plaintiffs"), in
26 the above-captioned action. I am a member in good standing with the bar of the State of
27

1 Washington. I am over the age of eighteen, attest to the following matters from personal
2 knowledge, and if called as a witness, could competently testify to the matters set forth herein.

3 2. Pursuant to Local Rule 6-3(a)(a), I state as follows: The Court gave preliminary
4 approval to a settlement agreement between Plaintiffs, on behalf of themselves and the class, and
5 defendant Google, Inc., on May 12, 2009. The settling parties are to file a motion for final
6 approval of the settlement by August 24, 2009, and the settlement hearing is scheduled for
7 September 14, 2009. Objectors to the settlement Randy R. Lyons, Chase Thompson, Etech Digital
8 Playroom, Inc., and Universal Pro Audio, LLC, represented by attorney Steve A. Miller, have
9 refused to attend and testify at duly noticed depositions absent a court order compelling their
10 attendance. On August 4, 2009, Plaintiffs filed a Motion to Compel Objector Depositions, noting
11 a hearing date of September 8, 2009, pursuant to Local Rule 7-2(a). (Docket No. 333.) Expedited
12 hearing of this matter is necessary to secure an order in time to allow Objectors' depositions to be
13 taken in advance of the settlement motion deadline and settlement hearing date set by the Court. A
14 hearing on August 11, 2009, if accompanied by an order that the depositions take place within one
15 week, would allow the depositions to be taken in time.

16 3. Pursuant to Local Rule 6-3(a)(2), I state as follows: On August 4, 2009, I emailed
17 counsel for Google, Inc., Daralyn Durie, regarding this motion to shorten time. By reply email,
18 she stated that Google did not object. On August 4, 2009, I emailed counsel for Objectors, Steve
19 A. Miller, regarding this motion to shorten time. By reply email on August 5, 2009, Mr. Miller
20 stated, "I will not stipulate to an August 11 hearing date."

21 4. Pursuant to Local Rule 6-3(a)(3), I state as follows: The substantial harm or
22 prejudice that would occur if the Court did not change the time for hearing is that Plaintiffs would
23 not have the opportunity to take Objectors' depositions prior to such time as they would be
24 required to respond to any objections that Objectors may offer. The settling parties are entitled to
25

1 depose Objectors to ascertain their reasons for objecting, the basis for their concerns, and to
2 determine whether they actually are class members. This is especially important in light of
3 Objectors' only filing in this case, which alleges in conclusory fashion that "the Proposed
4 Settlement is not fair, adequate or reasonable" without stating any basis for such alleged actual
5 unfairness, inadequacy, or unreasonableness, and also objects to "the requested attorneys' fees as
6 being excessive" and "the requested representative fee as being excessive," again without stating
7 any basis for such conclusions. This is additionally important in light of Objectors' failure to
8 include in their filing certain identifying information that the Court mandated be part of any such
9 filing, which information might have helped to establish whether Objectors are actually members
10 of the class.
11

12 5. Pursuant to Local Rule 6-3(a)(4), I state as follows: The underlying dispute in the
13 motion to which this motion to shorten time applies is whether a settling party may take
14 depositions of Objectors to a class settlement for purposes of understanding Objectors' reasons and
15 basis for objecting. Plaintiffs' position is that Plaintiffs are entitled to take such depositions.
16 Plaintiffs have attempted to arrange such depositions by telephone calls and email correspondence
17 with Objectors' attorney over the last three weeks, but Objectors have refused to attend duly
18 noticed depositions. Objectors' position is that they will not attend any depositions unless the
19 court orders them to do so.
20

21 6. Pursuant to Local Rule 6-3(a)(5), I state as follows: The previous time
22 modifications in this case related to briefing deadlines for summary judgment motions filed by
23 defendant Google, Inc. (Docket Nos. 72 and 79.)
24

25 7. Pursuant to Local Rule 6-3(a)(6), I state as follows: The requested time
26 modification would not have an effect on the schedule for the case. Indeed, by granting the
27 requested time modification, the Court would facilitate maintaining the current schedule by
28

1 removing one reason why the settlement motion and hearing dates might need to be changed.

2 I declare under penalty of perjury under the laws of the United States that the foregoing is
3 true and correct.

4 Signed this 5th day of August, 2009, at Seattle, Washington.

6 /s/ Daniel J. Shih

7 Daniel J. Shih